

Applicant acknowledges with appreciation the time spent at the interview by Examiner Homere with Applicant's attorney, James Kulbaski, during which the outstanding issues were discussed. Applicant is most appreciative of the reissue procedural/formal clarifications provided by Examiner Homere, which are expected to allow the formal issues to be readily clarified.

As a preliminary matter, the substitute specification contained a typographical error with claims 38-41 appearing twice. The second occurrence of these claims is requested to be deleted. Each of claims 1-44 remains pending in this application without amendment thereto.

Claims 1-44 were rejected as being based upon a defective Reissue Declaration. This rejection is respectfully traversed.

The Supplemental Reissue Declaration filed with this response states in paragraph numbered 8 on page 2:

At least one error upon which reissue is based is an antecedent basis error in original claim 9. Original claim 9 claimed a "system" but depends from claim 8 which recites a "computer program product." That is "how" the at least one error renders the original patent wholly or partly inoperative or invalid.

The examiner requested an explanation of how the error renders the claims wholly or partly inoperative or invalid, and the requested language has been inserted into the declaration. Thus, it is clear that this objection to the reissue declaration should be withdrawn.

Regarding the original patent or statement as to loss or inaccessibility, after the claims of the application are indicated as being allowable, such a statement will be filed with the PTO, or alternatively, the original patent surrendered.

The drawings were objected to as being informal. After the application as indicated as being allowable, formal drawings will be submitted.

Claims 37-44 were rejected under 35 U.S.C. § 251 because of improper broadening related to what appears to be a recapture issue. This rejection is respectfully traversed.

The examiner indicated at the Interview of November 8, 2002, that with regard to the recapture rejection, MPEP § 1412.02 explains the criteria related to recapture rejections. Specifically, the MPEP indicates that a recapture issue might exist related to an examiner's statement of reasons for allowance. When this was questioned, the SPRE attending the interview indicated that this provision of the MPEP was out of date in view of the case *Ex parte Yamaguchi*, 61 USPQ2d 1043 (U.S. Bd. Pat. App. and Int. 2001). This case clearly states that in the context of the present application, failure to respond to an examiner's reasons for allowance does not give rise to a surrender of subject matter.

In view of the *Yamaguchi* case, the recapture rejection should be withdrawn, as the SPRE indicated at the interview.

Claims 37-44 stand rejected under 35 U.S.C. § 102 as being anticipated by Wolff. This rejection is respectfully traversed.

Independent Claim 37 relates to a resource lock management system. In Claim 37, there is recited a memory which stores a first data structure, a memory which stores a second data structure, and a memory which stores a third data structure. The memory which stores a first data structure recites three fields. There is a first field which stores an access mode, a second field which stores an identification of a transaction, and a field which stores parameters. This field which stores parameters stores the parameters of a data reliability classification associated with a pending or granted resource lock request. The preferred embodiment of the invention, which should not be read into the claims but is merely being reviewed for purposes of illustration, shows in Figure 2 a data structure 162-5. This data structure includes the fields Mode 181, Params 182, Requester 184, and field 185, and a Next Field 186. The Params field 182 corresponds to the claimed field which stores parameters of

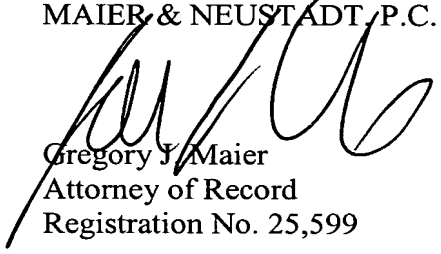
a data reliability classification associated with a pending or granted resource lock request. A general explanation of the field 182, which is for purposes of illustration only and not to be read into the claim, is set forth at the top of column 6 of the original patent.

U.S. Patent 6,009,427 to Wolff discloses a method and apparatus for distributed control of a database. While this patent discloses a database management system in which multiple clients on a network share control over and responsibility for the coherency of a shared database with multiple records, the concept of a field which stores parameters of a data reliability classification associated with a pending or granted resource lock request is wholly absent from Wolff. On page 5 of the outstanding Office Action, there is no explanation whatsoever of a field for storing parameters of a data reliability classification. In the middle of page 5 of the outstanding Office Action, it is stated that there is a field for storing parameters of a data reliability classification, but instead of pointing to a specific section of the Wolff patent, there is merely a blank space between parentheses. This is because Wolff does not contain such a field, as claimed. Wolff simply does not disclose nor suggest a field for storing parameters of a data reliability classification, and for at least this reason and other reasons, Claims 37-44 are patentable, and the rejection under 35 U.S.C. §102 should be withdrawn.

Consequently, in light of the above discussion and in view of the present amendment, the present application is in condition for formal allowance, and an early and favorable action to that effect is requested.

Respectfully submitted,

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